



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/526,378

01/13/2006

Antoine Moulin

Q86683

3827

23373 7590 10/08/2010
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

WYSZOMIERSKI, GEORGE P

ART UNIT

PAPER NUMBER

1733

NOTIFICATION DATE

DELIVERY MODE

10/08/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

Office Action Summary	Application No. 10/526,378	Applicant(s) MOULIN ET AL.	
	Examiner George P. Wyszomierski	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/9/2010 (RCE, Amendment).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-21 is/are pending in the application.
- 4a) Of the above claim(s) 12-16 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1793

1. A request for continued examination (RCE) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 9, 2010 has been entered. Claims 12-21 are pending, with claims 12-16 and 21 withdrawn from consideration as directed to a non-elected invention.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Higo et al. (PG Pub.No. 2001/0001049), in view of Claessens et al. (PG Pub.No. 2001/0007280) and Fujita et al. (PG Pub.No. 2004/0202889), for reasons as stated in the Office Action of June 12, 2009, taken with the following.

Briefly, Higo discloses a process as presently claimed, performed upon a composition overlapping that as recited in instant claim 17. In this respect, the examiner notes that the molybdenum content of the steels used in the Higo process overlaps the molybdenum range in claim 17 as amended. While Higo does not specify the heating and cooling rates presently claimed, Claessens and Fujita indicate that the rates as claimed are conventional in the art of producing galvanized steel sheets in processes analogous to that of Higo. With

Art Unit: 1793

regard to the limitations in claim 17 as amended that the steel is dual-phase and is used for producing automotive components, the examiner's position is that:

a) Given that the Higo process is directed to processing substantially the same material in substantially the same way as the present claims, one of skill in the art would expect the same phase structure to result in either instance. Further, one of skill in the art would believe that products made in these similar manners would be useful in similar applications, e.g. automotive components.

b) Paragraphs [0003]-[0004] of Claessens indicate that the process of that reference produces dual phase steels for use in the automobile field.

Thus, the disclosure of Higo et al., combined with that of Claessens et al. and Fujita et al., would have taught the method as presently claimed to one of ordinary skill in the art.

4. In remarks filed with the present RCE, Applicant suggests that a dual phase structure is such a remarkable property that Higo would undoubtedly mention that fact if it were present in the prior art. Applicant further speculates that, based on information in a Wikipedia article, the properties of the Higo material would not be those of a dual-phase steel. Applicant's arguments have been carefully considered, but are not persuasive of patentability because:

i) Applicant's comments are based largely on speculation and by way of argument alone, i.e. are not accompanied by evidence of probative value that would

Art Unit: 1793

indicate any difference in the phase structure produced in the prior art versus that of the claimed process, and

ii) A Wikipedia article cannot reasonably be considered equivalent to, for example, a declaration under 37 CFR 1.132. It is not attested to, its authorship is generally not known, and the information therein can easily be changed at any time by another party.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Wyszomierski whose telephone number is (571) 272-1252. The examiner can normally be reached on Monday thru Friday from 8:00 a.m. to 4:30 p.m. Eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King, can be reached on (571) 272-1244. All patent application related correspondence transmitted by facsimile must be directed to the central facsimile number, (571)-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/George Wyszomierski/
Primary Examiner
Art Unit 1793

GPW
September 30, 2010